

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

MMZ, by and through her guardian ad  
litem JAZMIN ZARATE, as successor  
in interest to ERNESTO CANEPA,  
deceased and JAZMIN ZARATE,  
JUANA DIAZ, ERNESTO CANEPA  
ALVAREZ, individually,

Plaintiffs,

vs.

CITY OF SANTA ANA,  
CHRISTOPHER SHYNN, and DOES 1  
through 10, inclusive,

Defendants.

AND ALL RELATED ACTIONS.

Case No.: SACV15-0851 JLS (DFMx)  
[and other consolidated actions]

**PROTECTIVE ORDER FOR  
PRODUCTION OF ORANGE  
COUNTY DISTRICT ATTORNEY  
INVESTIGATION REPORT**

IT IS HEREBY ORDERED, following stipulation of counsel, that:

1. In or about January 2016, the office of the Orange County District Attorney ("OCDA") completed its investigation report concerning the investigation into the officer involved shooting that is at issue in these consolidated lawsuits. This report contains numerous police reports, audio and transcribed statements of Santa Ana Police Department ("SAPD") police offers (including Officer Christopher Shynn), witness statements, reports of evidence analysis prepared by the Orange County Crime Lab, autopsy reports, medical records of

1 decedent Ernesto Canepa, the criminal history index of decedent, the SAPD reports  
2 that pertain to this incident, among other items (collectively, "OCDA Report").

3       2. All documents produced by the City of Santa Ana that compromise  
4 the OCDA Report will be clearly designated as "CONFIDENTIAL" and be placed  
5 in an envelope labeled as such prior to the disclosure. The "CONFIDENTIAL"  
6 designation shall be placed on the printed pages of the OCDA Report in a manner  
7 that does not overwrite or make illegible the text of the document.

8       3. Each person receiving any of the OCDA Report shall not disclose to  
9 any person or entity, in any manner, including orally, any of the OCDA Report or  
10 any of the information contained therein, except when used for purposes of this  
11 litigation pursuant to this protective order.

12       4. The OCDA Report and all information contained therein, may only be  
13 disclosed to the following "qualified" persons:

14       (a) Counsel of record for the parties to this civil litigation;

15       (b) Plaintiffs to these consolidated actions, and Defendant City of Santa  
16 Ana and its employees, including, but not limited to Officer Christopher Shynn;

17       (c) Paralegal, stenographic, clerical and secretarial personnel regularly  
18 employed by counsel referred to in subparagraph (a); and, investigators, expert  
19 witnesses and other persons legitimately involved in litigation-related activities for  
20 the counsel of record; and

21       (d) Court personnel, including stenographic reporters engaged in such  
22 proceedings as are necessarily incidental to preparation for the trial of this action.

23       (e) With the exception of the Court and court personnel (who are subject  
24 only to the Court's internal procedures regarding the handling of material filed or  
25 lodged, including material filed or lodged under seal), all persons receiving a copy  
26 of the OCDA Report shall, before receiving such protected information, be given a  
27 copy of this Protective Order and a compliance agreement (in the form attached  
28 hereto as Exhibit "A") and shall execute the compliance agreement, and return the

1 original of the compliance agreement to the attorney who gives him/her the  
2 protected information. It shall be the responsibility of the respective attorneys to  
3 distribute compliance agreements, and then collect and maintain custody of the  
4 executed originals of the compliance agreements.

5 5. To the extent any portion of the OCDA Report contains an audio  
6 recording, transcript and/or summary of a statement and/or report given to the  
7 OCDA by an independent witness who does not fall within one of the categories  
8 described in Paragraph 3 above, that selected portion of the OCDA Report may be  
9 provided to the particular witness to which it pertains.

10 6. The OCDA Report may be disclosed to the Court and court personnel,  
11 in connection with this litigation. Portions of the OCDA Report that a party  
12 intends to use in support of or in opposition to a pre-trial filing with the Court must  
13 be filed in accordance with the Central District of California Local Rules relating  
14 to under seal filings, including Local Rule 79-5. Counsel intending to use  
15 documents from OCDA Report must both (a) apply to submit unredacted  
16 documents containing any portion of the OCDA Report under seal and (b) file  
17 public versions of the same documents with the information from the OCDA  
18 Report redacted.

19 7. In the event this matter proceeds to trial, to the extent that any of the  
20 OCDA Report is offered into evidence, those documents will become public,  
21 unless sufficient cause is shown in advance of trial to proceed otherwise.

22 8. The court reporter, videographer, and audiographer, if any, who  
23 record all or part of any future deposition(s) in this matter, which include the  
24 OCDA Report or descriptions thereof, shall be subject to this Order and precluded  
25 from providing any portions of the original deposition videotape, audiotape, or  
26 exhibits which relate to the OCDA Report or information to any persons other than  
27 counsel of record, absent order of the court.

28 9. Those attending any future deposition(s) shall be bound by this Order

1 and, therefore, shall not disclose to any person or entity, in any manner, including  
2 orally, any documents from the OCDA Report made by such person during the  
3 course of said depositions.

4 10. At any future deposition(s), should there be persons in attendance  
5 who are not authorized to access to the OCDA Report or information, such persons  
6 shall be removed from the deposition room at any time information relating to the  
7 OCDA Report or protected information is disclosed or discussed.

8 11. The OCDA Report shall be used solely in connection with the  
9 preparation and trial of these consolidated actions, entitled with lead case M.M.Z.,  
10 et al. v. City of Santa Ana, et al., bearing case number 8:15-cv-00851-JLS  
11 (DFMx), or any related appellate proceeding, and not for any other purpose,  
12 including, without limitation, any other litigation or administrative proceedings or  
13 any investigation related thereto. Upon entry of this Order all of the OCDA  
14 documents, recordings, records and things will immediately be produced. This  
15 Order shall not be construed to limit in any way the plaintiffs from requesting  
16 additional documents and things in discovery from the Defendants, the OCDA or  
17 any third party.

18 12. This Order may not be modified unless by written consent of the  
19 parties and approval of the Court. Any party may move for a modification of this  
20 Order at any time. Upon receipt and review of the documents produced pursuant  
21 to this protective order, any party may move to remove the confidential  
22 designation of any document after meeting and conferring with opposing counsel  
23 and pursuant to the procedures governing discovery motions set forth in Local  
24 Rule 37.

25 13. This Order is made for the purpose of ensuring that the OCDA Report  
26 will remain confidential, unless otherwise ordered by the Court or in response to a  
27 successful motion by a party made pursuant to Paragraph 12.

28 14. At the conclusion of this litigation, upon request of defense counsel,

1 plaintiffs' counsel shall return the OCDA Report to Steven J. Rothans, Esq.,  
2 Carpenter, Rothans & Dumont, 888 S. Figueroa Street, Suite 1960, Los Angeles,  
3 California 90017. Alternatively, the receiving parties and every other person  
4 and/or entity who received originals or copies of the protected information may  
5 destroy all such material and material derived therefrom within thirty (30) calendar  
6 days after the conclusion of this case. Additionally, within thirty (30) calendar  
7 days after the conclusion of this case, counsel for the receiving parties shall send a  
8 signed declaration stating that such material has been destroyed pursuant to this  
9 Protective Order.

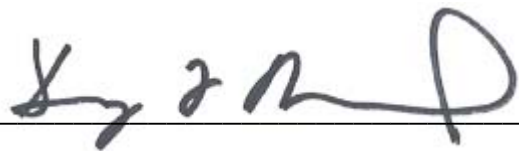
10 15. Nothing in this Order shall be construed as authorizing a party to  
11 disobey a lawful subpoena issued in another action.

12 **GOOD CAUSE**

13 The parties submit that GOOD CAUSE exists to enter the proposed  
14 protective order to balance the defendants' and the OCDA's concerns that the  
15 documents consist of police reports and private information concerning the parties  
16 to this litigation, as well as individuals who are not parties to this litigation, as  
17 protected by the official information privilege, law enforcement privilege and the  
18 right to privacy, as protected by the California and United States Constitution, with  
19 plaintiffs' right to discovery in this litigation. The parties agree that all documents  
20 marked confidential and produced pursuant to this protective order are subject to  
21 the terms of this protective unless otherwise ordered by the Court.

22 IT IS SO ORDERED.

23  
24  
25 DATED: July 15, 2016

  
\_\_\_\_\_  
Honorable Douglas F. McCormick  
United States District Court  
Magistrate Judge